

# Federal Opportunity Zone and Brownfield Opportunity Area

For over 80 years, the former Bethlehem Steel Corporation operated one of the country’s largest steel plants in the city of Lackawanna, New York. Although the Lackawanna Plant ceased operations some 40 years ago, one of the legacies of the past industrial use is several hundred acres of developable land serviced by road, rail and water, which is positioned to take advantage of New York State’s lucrative Brownfield Clean Up Program (BCP) cash-back tax incentives and Federal Opportunity Zone (FOZ) tax benefits.

The BCP benefits are available “as-of-right” for parcels in the program provided the developer follows the redevelopment plans approved by New York State Department of Environmental Conservation (NYS DEC). Over a hundred acres are already in the program and ready for development. Many more acres appear to meet the program requirements and are positioned to take advantage of the BCP and FOZ benefits. As set forth below, the BCP tax credits bring real money back to project investors for costs related to site preparation and qualified tangible property:

- Site preparation – includes all approved costs determined reasonable and necessary by the NYS DEC to make the property ready for development. These may include engineering costs and remediation activities, such as demolition, excavation, soil disposition and related preparation steps. The value of the site preparation tax credit ranges up to 50% of the costs incurred claimable in the tax year following the issuance of a certificate of completion (COC). Buildings planned for a brownfield parcel do not have to be constructed to receive the site preparation tax credit.
- Qualified tangible property (QTP) – provides tax credits up to 22% of the value of improvements (structures and other depreciable assets) constructed on a brownfield parcel, capped at the lesser of \$35 million or six times the site prep costs for manufacturing projects and three times for all other development projects. There is a 10-year period from issuance of the COC to operationalize the constructed facilities and claim the QTP tax credit.

For illustration purposes, if a developer planning a project on a city of Lackawanna brownfield-designated parcel were to invest \$2 million for preparation and \$20 million for tangible property development, they would be eligible for a total BCP tax credit of \$5.4 million:

BCP Tax Credit Category	Amount	How Calculated
Site Preparation	\$ 1.0MM	50% of \$2MM site preparation investment
Qualified Tangible Property	\$ 4.4MM	22% of \$20MM facility construction investment
Total BCP Tax Credit	\$ 5.4MM	

Lackawanna’s BOA is situated within a census tract that qualifies as a Federal Opportunity Zone, a designation allowing developers to defer capital gains taxes if they develop and/or improve properties located in the Opportunity Zone and hold them for at least 10 years. The Opportunity Zone designation also brings the potential for NYSEDA low-cost energy allocations. While brownfield development projects can be complicated, the financial incentives available for restoring these former industrial lands to productive re-use are substantial, especially for light manufacturing, warehousing and distribution projects.

